

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JERRY SAENZ,

Petitioner,

v.

GERALD BERGE, in his official capacity;
Alpha Unit Manager, MR. HOMPE;
LT. BIGGERS;
RENEA WALTZ; and
DOES 1-100; all in their official and
individual capacities,

Respondents.

ORDER

09-cv-185-slc

Petitioner has responded to this court's April 3, 2009 order assessing him an \$.85 initial partial payment of the \$350 fee for filing this case. Attached to petitioner's response is a handwritten note from a business office employee named M. Kerr in which he states that there are "[i]nsufficient funds available to process check." Although petitioner does not ask the court to take any action with regard to the denial of his request for disbursement of funds, it is possible he will be able to make the payment with an extension of the deadline. Therefore, I will construe his response to include a request for extension of time and extend his deadline to pay the \$.85 initial partial payment until May 14, 2009.

Although I have given petitioner additional time to submit his payment, it may well be that he will be unable to pay the initial partial payment by the May 14 deadline. (The trust fund account statement petitioner submitted with his complaint shows that the income he had been receiving on a biweekly basis ceased in January 2009.) However, if, at some future time,

petitioner is able to make the initial partial payment or enough time elapses that a six-month trust fund account statement would show that he has had no income for a full six-month period, he would be free to refile this lawsuit.

ORDER

IT IS ORDERED that petitioner may have an enlargement of time to May 14, 2009, in which to submit a check or money order payable to the clerk of court in the amount of \$.85. If, by May 14, 2009, petitioner fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court is directed to close this file without prejudice to petitioner's filing his case at a later date.

Entered this 16th day of April, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge